

LDC Report	21/07/2016
Officer Tony Young	Application Number 2016/2976/P
Application Address 39 Parkway London NW1 7PN	Recommendation Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal Use as a 3-bed residential unit (Class C3) over 1st and 2nd floor levels.	
Assessment <p>The property is a 3-storey terraced building situated on the south-eastern side of Parkway. The ground floor operates as a retail unit and the upper floors (1st and 2nd floors) are the subject of this application. Access to the ground floor retail unit and the upper floors is provided through the same ground floor entrance door on Parkway.</p> <p>The building is not listed and sits within the Camden Town conservation area.</p> <p>This application seeks to demonstrate that on the balance of probability the use as a 3-bed residential unit (Class C3) over 1st and 2nd floor levels began more than four years before the date of this application such that its retention would not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Planning statement from RPS CgMs (ref. NS/MR/22263) dated 25/05/2016, including various statutory declarations, tenancy agreements, council tax records, and utility certificate submitted by way of supporting evidence for the assertion that the residential use of the 1st and 2nd floors has operated since at least 2012. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • Unnumbered site location plan outlining the application site; • Existing ground, 1st and 2nd floor plans (ref. 2012-00-01); • Existing rear elevation and section (ref. 2012-00-02). <p>Council's Evidence</p> <p>There is relevant planning and enforcement history on the subject site:</p>	

2014/2689/A - Installation of 1 x projecting sign and fascia sign to shop. Advertisement consent granted 03/06/2014

8903618 - The installation of a new shopfront incorporating a separate entrance to the upper floors together with the erection of a conservatory extension at rear first floor to provide additional residential accommodation. Planning permission granted 14/02/1990

TP56914/4590 - In outline, the erection of a single storey extension at the rear. Planning permission granted 17/07/1950

EN15/0055 – Alleged breach of planning control (operating as short term/holiday let accommodation) reported on 21/01/2015. A Planning Contravention Notice (PCN) was served dated 28/05/2015.

Romain Cohen, director of Eurobridge Property Ltd (managing agent for Parkway Properties Ltd., the landlord) responded by verifying that the 1st and 2nd floors of the property have not been used as short term let (temporary sleeping) accommodation and provided a tenancy agreement in support of the assertion that these floors have been in residential use since at least 2012.

Camden's Council Tax and Business Rates records confirm that council tax has been paid for residential use at 1st and 2nd floor levels since at least 2011.

Assessment

The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (Planning Practise Guidance para. 006), Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the "balance of probability", and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant's version of events, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

The Council does not have any evidence to contradict or undermine the applicant's version of events. The documents provided demonstrate that the use as a 3-bed residential unit (Class C3) over 1st and 2nd floor levels had begun since 2012 and has remained unaltered until the present time.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the use as a 3-bed residential unit (Class C3) over 1st and 2nd floor levels began more than four years before the date of this application as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve